



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 23, 2011

Mr. Josie L. Ramirez  
Assistant District Attorney  
Hidalgo County District Attorney's Office  
100 North Closner, Room 303  
Edinburgh, Texas 78539

OR2011-03942

Dear Mr. Ramirez:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 411992.

The County of Hidalgo (the "county") received a request for (1) information pertaining to the age of a named individual; (2) the attendance work record for the same named individual for a specified period of time; and (3) the county's policy on posting information to social networking sites during working hours. You state the county has made available information responsive to item three. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant request because this information pertains neither to the age of the named individual nor the named individual's attendance work record for the specified time period. The county need not release nonresponsive information in response to this request, and this ruling will not address that information.

We note the information in exhibit D pertaining to the age of the named individual contains information that is excepted from disclosure under section 552.102(a) of the Government

Code.<sup>1</sup> Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Having carefully reviewed the information in exhibit D, we have marked the information that must be withheld under section 552.102(a) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. As this office has often noted, information relating to public employees and public employment is generally not protected by common-law privacy because the public has a legitimate interest in such information. *See* Open Records Decision Nos. 562 at 10 (1990) (personnel information does not involve most intimate aspects of human affairs, but in fact touches on matters of legitimate public concern), 470 at 4 (1987) (job performance does not generally constitute public employee’s private affairs), 444 at 3 (1986) (public has obvious interest in information concerning qualifications and performance of government employees), 423 at 2 (1984) (scope of public employee privacy is narrow). Upon review, we find the county may not withhold any of the remaining information in exhibit D under section 552.101 of the Government Code in conjunction with common-law privacy.

You also raise section 552.117 of the Government Code for the remaining information in exhibit D. Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(1). None of the remaining information in exhibit D consists of the home address, telephone number, social security number, or family member information of the named individual. Accordingly, the county may not withhold any of the remaining information in exhibit D under section 552.117 of the Government Code.

---


<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.102 on behalf of a governmental body, but ordinarily will not raise other exceptions.

In summary, the county must withhold the information we have marked in exhibit D under section 552.102(a) of the Government Code. The remaining information in exhibit D must be released to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/eeg

Ref: ID# 411992

Enc. Submitted documents

c: Requestor  
(w/o enclosures)